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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
9 **OAKLAND DIVISION**

10 THE UNITED STATES OF AMERICA,) **No. CR-12-00629-YGR**
11 Plaintiff,)
12 vs.) **DEFENDANT'S REQUEST**
13 KIRK LOUDER,) **FOR EXTENSION OF TIME TO**
14 Defendant.) **FILE REPLY BRIEF AND**
) **DECLARATION IN SUPPORT**
) **and MODIFIED ORDER**
15)

16 The defendant, by and through his attorney of record, DEBORAH G. LEVINE, hereby
17 requests an extension of time to file a Reply Brief to the government's Opposition to defendant's
18 Motion to Suppress for the following reasons:

19 The defense requires more time to investigate and respond to the new information produced in the
20 government's Opposition Brief, as detailed in the attached declaration of counsel for the defendant.
21 The defendant's Reply Brief is currently due on January 28, 2013. Defendant requests an extension
22 to February 5, 2013 to file the reply and to reset the hearing currently scheduled for January 31, 2013
23 to February 7, 2013.

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27 Dated: January 25, 2013

Respectfully submitted,

28 /s/Deborah G. Levine
DEBORAH G. LEVINE
Attorney for Kirk Louder

Declaration of Deborah G. Levine

I, Deborah G. Levine, declare that:

1. I am an attorney licensed to practice in California (SBN 57607) and in the United States District Court for the Northern District of California.
2. I am an attorney member of the CJA Panel in the Northern District and as such was appointed to represent Kirk Louder in case number CR12-00629 YGR.
3. I have received discovery from the prosecution in this case which includes police reports, documents and photographs.
4. On July 24, 2012 I received the first production of documents [herein after "First Production"] from the Assistant United States Attorney, Randall Luskey, who is assigned to prosecute this case. The "First Production" included reports numbered KL0001-KL0197.
5. I received additional discovery [herein after referred to as the "Second Production"] on December 7, 2012. This discovery includes photographs. After requesting a log of the photographs I was told that there is no log of the photographs indicating the date or time the pictures were taken. In addition, no agent or officer has been identified who took the photographs. I also requested this information.
6. Some of the photographs produced on December 7, 2012 were attached to the government's Response to defendant's Motion Suppress.
7. In response to my requests for the identity of the photographer, the Assistant United States Attorney has informed me that neither he nor any of the law enforcement personnel have been able to identify the photographer. As such to date neither the photographer's identity nor a photo log have been produced by the government.
8. Despite the lack of information about the creation of the photographs, claims are made in the government's Opposition as to the content of the photographs. Declarations by four

1 law enforcement personnel are attached to the government's Opposition to defendant's
2 Motion.

3 9. Much of the information contained in the declarations of the officers is not contained in
4 any of the discovery provided to the defendant.

5 10. The declarations include numerous claims as to what the unidentified photographs depict.

6 11. Based on the new information contained in the government's Opposition to defendant's
7 Motion to Suppress, counsel for defendant has commenced investigation, the results of
8 which will be included in the Reply brief. Although counsel hoped to have this work
9 completed in time to file the reply on January 28, 2013 the necessary work is not yet
10 complete. It is estimated that the time between this declaration's signing and February 5,
11 2013 will be sufficient to complete this investigation and Reply brief.

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13 I declare under penalty of perjury that the forgoing is true and correct to the best of my
14 knowledge and belief. Executed this 25th day of January 2013, in Walnut Creek,
15 California.

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17 s/Deborah G. Levine
18 Deborah G. Levine
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3 **[PROPOSED] ORDER**
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6 FOR GOOD CAUSE SHOWN, IT IS SO FOUND AND ORDERED THAT:

7 The currently scheduled January 28, 2013 date for filing defendant's Reply in support of his
8 Motion to Suppress is extended to February 5, 2013.

9 The Hearing on the Motion to Suppress will be held Thursday, February 14, 2013 at
10 3:00pm.
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14 IT IS SO ORDERED
Dated: January 28, 2013
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HONORABLE YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE